

REMARKS

Status of the Claims

Claims 1-22 are pending in the present application.

Restriction Requirement

The Examiner has required election in the present application between:

Group I, claims 1-10, drawn to a composition comprising a guanyl cyclase B (G-B) activator;

Group II, claims 11-17 and 22, drawn to a method for increasing a body height of an individual, comprising activating GC-B; and

Group III, claims 18-21, drawn to a method of screening for an agent for increasing the body height comprising screening agents using the activity of GC-B as an indicator.

For the purpose of examination of the present application, Applicants elect, with traverse, Group II, Claims 11-17 and 22.

The Examiner indicates that unity of invention does not exist and the Examiner alleges that U.S. Patent No. 6,034,231 to Tanaka *et al.* anticipates Group I and Group II claims.

Applicant note that the International Preliminary Report on Patentability, which issued on October 19, 2006, did not find a lack of unity of invention between the present claims. Applicants further respectfully submit that U.S. Patent No. 6,034,231 does not break the unity of invention, and even assuming *arguendo* that it anticipates the claims in Groups I and II, Applicants are not aware of instructions in the MPEP that the determination of a special technical feature in the claims is solely made before prosecution begins and that the special technical feature cannot be added during prosecution by amendment. Should Applicants amend

the claims to recite features not described in the prior art references, then these features should be considered when considering unity of invention throughout prosecution.

Species Election

Claims 11-17 and 22 are further subjected to a Species Election. (See, Office Action at pages 3-5). The Examiner states that if Groups I or II are elected, two species elections are required, see Office Action, page 3. In particular, the Examiner states that claims 11-14 are generic to any CNP peptide, see Office Action, page 3. The Examiner further states that claims 15-17 specify CNP-22 and CNP-53 as a Markush Group, see Office Action, pages 3-4. The Examiner also states that claims 11-17 encompass species directed to (a) patients with short stature and (b) patients other than those having short stature, see Office Action, page 4. In addition, the Examiner states that claims 11 and 14-17 are directed to more than one species of bones: (a) cartilage bones; (b) femora, (c) tibia, (d) radiuses and (e) ulnae.

For the purpose of examination of the present application, Applicants elect CNP-22 and cartilage bones, with traverse.

Claims 11, 12, 14, 15, 16, 17, and 22 encompass CNP-22 and cartilage bones. Claims 15-17 specify CNP-22 and CNP-53 as a Markush Group. Claim 12 specifies cartilage bones.

Applicants traverse on the grounds that it would not be an undue burden on the Examiner to perform a search of all species encompassed by the present claims. Further, Applicants are aware that upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141.

CONCLUSION

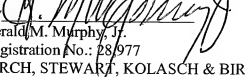
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr., Registration No. 28,977 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☒ Attached is a Petition for Extension of Time.
- ☒ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: June 8, 2009

Respectfully submitted,

By 
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